

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

United States of America,

Plaintiff,

-against-

Any and All Funds on Deposit at JPMorgan Chase
Account Number 61442003 Held in the Name of CIA
Minera Aurifera Santa Rosa SA, AKA COMARSA,
et. al,

Defendants-
in-Rem,

-and-

CIA Minera Aurifera Santa Rosa SA,

Claimant.

Civil Action No. 12-CV-7530 (GBD)

Declaration of
Abbe David Lowell

I, Abbe David Lowell, being of legal age and pursuant to 28 U.S.C. § 1746, hereby
declare as follows, based on my own personal knowledge:

1. I am a partner of the law firm Chadbourne & Parke LLP, counsel for claimant
CIA Minera Aurifera Santa Rosa S.A. (“COMARSA”).
2. I am a member in good standing of the bar of New York and am admitted to
practice in the United States District Court for the Southern District of New York.
3. I make this declaration in support of COMARSA’s Opposition to Government’s
Motion to Dismiss the Complaint without Prejudice, and Cross-Motion to Dismiss the

Complaint with Prejudice, to Declare it the Prevailing Party, to Award it Statutory Attorneys' Fees and Other Relief.

4. Attached hereto as Exhibit A is a true and correct copy of the letter from Assistant United States Attorney Paul Monteleoni to the Honorable George B. Daniels, United States District Court Judge for the Southern District of New York, dated April 12, 2013.

5. Attached hereto as Exhibit B is a true and correct copy of the press release issued by Preet Bharara, United States Attorney for the Southern District of New York, dated October 10, 2012.

6. Attached hereto as Exhibit C is a true and correct copy of, as well as a certified translation of, an article from the October 25, 2012 edition of Caretas, a Peruvian news magazine, titled "Baraja de Bharara" (Bharara's Cards).

7. Attached hereto as Exhibit D is a true and correct copy of the transcript of the February 27, 2013 status conference before the Honorable George B. Daniels, United States District Court Judge for the Southern District of New York.

8. Attached hereto as Exhibit E is a true and correct copy of the transcript of the January 4, 2013 status conference before the Honorable George B. Daniels, United States District Court Judge for the Southern District of New York.

9. Attached hereto as Exhibit F is a true and correct copy of the letter from Abbe David Lowell, counsel for claimant COMARSA, to the Honorable George B. Daniels, United States District Court Judge for the Southern District of New York, dated February 25, 2013.

10. Attached hereto as Exhibit G is a true and correct copy of the letter from Assistant United States Attorney Paul Monteleoni to the Honorable George B. Daniels, United States District Court Judge for the Southern District of New York, dated February 22, 2013.

11. Attached hereto as Exhibit H is a true and correct copy of an email sent from Abbe David Lowell to Assistant United States Attorney Paul Monteleoni on March 21, 2013.

12. Attached hereto as Exhibit I is a true and correct copy of a letter sent from Assistant United States Attorney Paul Monteleoni to Abbe David Lowell on March 20, 2013.

13. Attached hereto as Exhibit J is a true and correct copy of the Declaration of Mariella Trujillo Würtelle, COMARSA's counsel in Peru, as well as attachments and certified translations thereof.

14. Attached hereto as Exhibit K is a true and correct copy of the September 17, 2012 MLAT Request.

15. Attached hereto as Exhibit L is a true and correct copy of the emails exchanged between Assistant United States Attorney Paul Monteleoni and Michael Peter Socarras, counsel for Claimant COMARSA, from April 11, 2013 to April 12, 2013.

16. The statements made below are based on my knowledge stemming from my representation of COMARSA in relation with this case:

17. Over the last seven months, COMARSA has scanned, reviewed, and produced over 100,000 pages of documents; has had its officers and employees interviewed by counsel so that an answer could be prepared and filed; has had its lawyers visit Peru on numerous occasions; has had its Peruvian attorneys come to the United States; and has had to file pleadings and letters in this Court to obtain the search warrant affidavit, impose a discovery schedule, and create a case management plan.

18. COMARSA has spent hundreds of thousands of dollars defending this case.

19. This lawsuit has cost COMARSA significant revenue (millions of dollars). Its main customer, Itaiprezi SpA, stopped doing business with it, as well as COMARSA's transportation company and security carrier.

20. Many of COMARSA's suppliers and contractors in Peru cancelled their contracts with COMARSA as a result of this litigation, including Brinks, which provided transportation and security for COMARSA's gold shipments and Ferreyros, Caterpillar's subsidiary in Peru, which provided COMARSA much of the heavy machinery necessary to conduct its mining operations, forcing COMARSA to contract with lower quality suppliers and enter into more expensive relationships to maintain its operations.

21. Many of COMARSA's relationships with Peruvian banks have ended altogether, and several of its affiliated (and smaller) companies are struggling to conduct business.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on April 23, 2013, in Washington, D.C.

/s/ Abbe David Lowell
Abbe David Lowell
NY Bar No.: 2981744
SDNY Reg. No.: AL2981

CERTIFICATE OF SERVICE

I hereby certify that, on April 23, 2013, I caused a true and correct copy of the Declaration of Abbe David Lowell to be served via the CM/ECF system upon Preet Bharara, United States Attorney for the Southern District of New York, Sarah E. Paul, Assistant United States Attorney, and Paul Monteleoni, Assistant United States Attorney.

/s/ Abbe David Lowell
Abbe David Lowell